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COMMITTEE AGAINST TORTURE

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SUMMARY RECORD OF THE PUBLIC PART* OF THE 360th MEETING

Held at the Palais des Nations, Geneva,
on Thursday, 19 November 1998, at 10 a.m.

Chairman: Mr. BURNS

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* The summary record of the closed part of the meeting appears as document CAT/C/SR.360/Add.1.

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The meeting was called to order at 10.05 a.m.

STATEMENT BY THE UNITED NATIONS HIGH COMMISSIONER FOR HUMAN RIGHTS

1. Mrs. ROBINSON (United Nations High Commissioner for Human Rights), congratulating Mr. Burns on his election as Chairperson/Rapporteur of the 10th meeting of persons chairing the human rights treaty bodies, said it was the first time a chairperson of the Committee against Torture had been chosen to fill that role. She was sure that his election would significantly contribute to strengthening cooperation between the human rights bodies.

2. It was satisfying to note that cooperation between the treaty bodies and non-treaty mechanisms, which was now gaining importance throughout the human rights sphere, had been a normal practice of the Committee since its establishment 10 years ago. The Committee might indeed be seen as a model for how to improve the flow of information between United Nations mechanisms handling different aspects of the same subject. Its "multilateral" approach to the fight against torture, which had featured importantly in the Joint Declaration of the United Nations International Day in Support of Victims of Torture, should be encouraged and supported.

3. Since the Committee regularly urged States parties to make generous contributions to the United Nations Voluntary Fund for Victims of Torture, she was pleased to inform members that contributions to the Fund were steadily increasing. The amount available now stood at US$ 5 million. Yet efforts to secure contributions should not flag: requests to the Fund for rehabilitation projects amounted to US$ 6.8 million during 1998.

4. The Special Rapporteur of the Commission on Human Rights on questions relating to torture had made a practice of referring to the Committee's conclusions and recommendations on the reports of States parties when addressing the issue of torture in the States concerned. Sadly, the number of allegations of torture he received did not decrease. The Special Rapporteur was currently visiting Turkey, at the invitation of the Turkish Government, and missions to Cameroon and Kenya were planned for the coming year.

5. Prevention of torture must become a priority goal of the international community. Accordingly, she strongly supported the establishment of an international system of preventive visits to places of detention. The Working Group on the draft Optional Protocol to the Convention against Torture, one of whose objectives was to establish such a preventive system, had adopted a number of provisions concerning both procedure and the dissemination of information about the protocol, in particular to personnel who worked with detainees. Crucial issues nevertheless remained unresolved, among them whether the consent of a State party should be obtained prior to each visit; whether national legislation should take precedence over international provisions under certain circumstances; whether the body that would monitor implementation of the Protocol should be authorized to issue public statements if a State party failed to cooperate; and whether States parties acceding to the protocol should be permitted to enter reservations. The matter of whether the body monitoring the Protocol should be linked to the Committee and, if so, how, had been deferred to the final phase of the deliberations. Mr. Sørensen

had informed members of the activities of the Working Group at the previous session and she noted that the Committee had requested him to keep it apprised of future developments.

6. It was gratifying to report that, only the day before, the Third Committee of the General Assembly had adopted a resolution concerning torture and other cruel, inhuman or degrading practices. Several parts of the resolution related directly to the work of the Committee. First, it commended the Committee on its report (A/53/44); second, it authorized the Secretary-General to extend the spring session for an additional week; and third, it urged all Member States not parties to the Convention to accede to it as a matter of priority. She was especially glad that the Third Committee had chosen to issue such an exhortation during 1998, which, significantly, was the year in which the Vienna Declaration and Programme of Action was under review.

7. She had taken note of Mr. Zupančič's letter of resignation, dated 12 November 1998 and addressed to the Secretary-General, and wished both to congratulate him on his election to the new European Court of Human Rights and to express her regrets that he had been obliged to cut short his term on the Committee because the two positions were incompatible. She was sure the members of the Committee shared her appreciation for his outstanding contribution to the realization of the goals of the Convention over the past three years, and wished him the best in his new role.

8. Lastly, the Committee against Torture had been the only human rights treaty body present to observe her Office's move from the Palais des Nations to the Palais Wilson. It had therefore shared the difficulties of the transition. The Secretariat had made emergency arrangements to ensure that the Committee's work could continue uninterrupted, including the smooth transfer of materials and documents. She was fully aware that the Committee had had a heavy schedule of substantive work to accomplish during the session and at the same time been the focus of international attention.

9. The CHAIRMAN said the Committee genuinely appreciated the support expressed by the High Commissioner for Human Rights and thanked her, in particular, for informing it of the results of the deliberations of the Third Committee of the General Assembly.

The public part of the meeting was suspended at 10.15 a.m. and resumed at 11.05 a.m.

CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES UNDER ARTICLE 19 OF THE CONVENTION (agenda item 4) (continued)

Conclusions and recommendations of the Committee on the third periodic report of the United Kingdom of Great Britain and Northern Ireland and Dependent Territories (continued)

10. At the invitation of the Chairman, the delegation of the United Kingdom of Great Britain and Northern Ireland took a place at the Committee table.

11. The CHAIRMAN (Country Rapporteur), read out the following text containing the conclusions and recommendations adopted by the Committee concerning the third periodic report of the United Kingdom of Great Britain and Northern Ireland and Dependent Territories:

"1. The Committee considered the third periodic report of the United Kingdom of Great Britain and Northern Ireland and Dependent Territories (CAT/C/44/Add.1) at its 354th, 355th and 360th meetings, held on 16 and 19 November 1998 (CAT/C/SR.354, 355 and 360) and has adopted the following conclusions and recommendations:

A. Introduction

2. The third periodic report of the United Kingdom of Great Britain and Northern Ireland was due on 6 January 1998 and was received on 2 April 1998. In every respect it conformed to the guidelines of the Committee pertaining to the preparation of such periodic reports. In particular the Committee found it helpful to have its recommendations from the examination of the second periodic report summarized at the outset together with a short statement concerning the action the State party had taken in that respect.

B. Positive aspects

3. (a) The enactment of the Human Rights Act 1998.

(b) The enactment of the Immigration Commission Act 1998.

(c) The 'Peace Process' in Northern Ireland, pursuant to the Good Friday Agreement.

(d) The removal of corporal punishment as a penalty in several of the Dependent Territories.

C. Factors and difficulties impeding the application of the provisions of the Convention

4. The continuation of the State of Emergency in Northern Ireland, noting that no exceptional circumstances can ever provide a justification for failure to comply with the Convention.

D. Subjects of concern

5. (a) The number of deaths in police custody and the apparent failure of the State party to provide an effective investigative mechanism to deal with allegations of police and prison authorities' abuse, as required by article 12 of the Convention, and to report publicly in a timely manner.

(b) The use of prisons as places in which to house refugee claimants.

(c) The retention of detention centres in Northern Ireland, particularly Castlereagh Detention Centre.

(d) The rules of evidence in Northern Ireland that admit confessions of suspected terrorists upon a lower test than in ordinary cases and in any event permits the admission of derivative evidence even if the confession is excluded.

(e) Sections 134 (4) and 5 (b)(iii) of the Criminal Justice Act 1998 appear to be in direct conflict with article 2 of the Convention.

(f) Sections 1 and 14 of the State Immunity Act 1978 seem to be in direct conflict with the obligations undertaken by the State party pursuant to articles 4, 5, 6 and 7 of the Convention.

(g) The continued use of plastic bullet rounds as a means of riot control.

(h) The dramatic increase in the number of inmates held in prisons in England and Wales over the last three years.

E. Recommendations

(a) The closure of detention centres, particularly Castlereagh, at the earliest opportunity.

(b) The reform of the State Immunity Act 1978 to ensure that its provisions conform to the obligations contained in the Convention.

(c) The reform of Sections 134 (4) and 5 (b)(iii) of the Criminal Justice Act 1988 to bring them into conformity with the obligations contained in article 2 of the Convention.

(d) The abolition of the use of plastic bullet rounds as a means of riot control.

(e) Reconstruction of the Royal Ulster Constabulary so that it more closely represents the cultural realities of Northern Ireland. This should continue to be associated with an extensive programme of re-education for members of the Royal Ulster Constabulary directed at the objectives of the Peace Accord and the best methods of modern police practices.

(f) The Committee finally recommends that in the case of Senator Pinochet of Chile, the matter be referred to the office of the public prosecutor, with a view to examining the feasibility of and if appropriate initiating criminal proceedings in England, in the event that the decision is made not to extradite him. This would satisfy the State party's obligations under articles 4 to 7 of the Convention and article 27 of the Vienna Convention on the Law of Treaties 1969."

12. Mr. LYNE (United Kingdom of Great Britain and Northern Ireland) thanked the Committee. He would take careful note of the conclusions and recommendations, which would be forwarded immediately to his Government for consideration.

13. The CHAIRMAN thanked the delegation for its cooperation.

14. The delegation of the United Kingdom of Great Britain and Northern Ireland withdrew.

The public part of the meeting was suspended at 11.15 a.m. and resumed at 12 noon

Conclusions and recommendations on the third periodic report of Hungary

15. At the invitation of the Chairman, the delegation of Hungary took a place at the Committee table.

16. Mr. MAVROMMATIS (Country Rapporteur) read out the Committee's conclusions and recommendations on the third periodic report of Hungary:

"1. The Committee considered the third periodic report of Hungary (CAT/C/34/Add.10) at its 356th, 357th and 361st meetings, held on 17 and 19 November 1998 (CAT/C/SR.356, 357 and 361), and has adopted the following conclusions and recommendations:

A. Introduction

2. The Committee examined the initial report of Hungary in 1989 and its second periodic report in 1993. The third periodic report of Hungary complies with the relevant guidelines but, whereas it was due in 1996, it was submitted in April 1997. Hungary has recognized the competence of the Committee to receive and consider communications under both article 21, paragraph 1, and article 22 of the Convention. It has also adhered to the European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment.

B. Positive aspects

3. The Committee notes with satisfaction that Hungary earlier this year withdrew its reservation on geographical limitation to the 1951 Geneva Convention relating to the Status of Refugees, which had previously excluded non-European asylum-seekers. The Committee also notes with satisfaction, inter alia, the new legislation on asylum; Act LIX 1997 on the Criminal Punishment System; the Ombudsman mechanism and Hungary's compliance with the previous recommendations of the Committee.

C. Subjects of concern

4. The Committee is concerned with the provisions of article 123 of the Criminal Code of Hungary, which makes torture punishable only if the soldier or policeman committing the act was aware that by so doing he or

she was committing a criminal offence. The Committee is also concerned about persistent reports that an inordinately high proportion of detainees are roughly handled or treated cruelly before, during and after interrogation by the police and that a disproportionate number of detainees and/or prisoners serving their sentence are Roma.

5. The Committee is disturbed by information to the effect that a number of complaints of torture or treatment contrary to article 16 of the Convention do not result in the initiation of investigations by prosecutors.

6. The Committee is concerned about reports on conditions in prisons, detention centres and holding centres for refugees such as, inter alia, overcrowding, lack of exercise, education and hygiene.

D. Conclusions and recommendations

7. The Committee recommends that all necessary measures, including in particular prompt access to defence counsel assistance soon after arrest and improved training, be taken to prevent and eradicate torture and all acts of cruel, inhuman or degrading treatment or punishment.

8. The Committee requests that Hungary include in its next periodic report all relevant statistics, data and information on:

(a) The number of complaints about ill-treatment; the proportion they represent in relation to the total number of cases investigated and, in particular, the proportion of Roma complaints, detainees and prisoners;

(b) The number and proportion of cases discontinued by prosecutors, i.e. cases of torture of violations of article 16, the reasons, if any, for such discontinuance and the measures taken to ensure the complete impartiality and effectiveness of the investigation of the aforesaid complaints or accusations; and

(c) Complaints against military personnel for alleged torture of civilians and the justification for military prosecutors handling such cases.

9. The Committee further urges the State party to take all appropriate action necessary to bring the Hungarian translation of article 3, paragraph 1, of the Convention into line with the authentic texts of the aforesaid article.

10. The Committee urges the State party to re-examine article 123 of the Criminal Code and to effect the necessary amendments thereto in order to ensure its consonance with the terms and purposes of the Convention."

17. Mr. NÁRAY (Hungary) thanked the Committee for its useful and stimulating dialogue with his delegation. The Hungarian authorities would take a close look at current practice and regulations in the light of the Committee's

conclusions and recommendations in order to see how the situation might be improved. They would also include the information requested by the Committee in their next periodic report.

18. It was a little unfair to ask a delegation to respond at short notice to allegations from NGO sources of which it was entirely unaware. He suggested that such allegations should be forwarded to the State party in advance so that a satisfactory response could be prepared. It was a problem that arose in most of the human rights treaty bodies.

19. While the conclusions and recommendations provided a broadly accurate picture of the situation in Hungary, he expressed reservations regarding the statement in paragraph 5 that certain complaints of torture or ill-treatment had not been investigated by prosecutors. The prosecutors were completely independent of the police force and conducted impartial investigations of complaints in all cases.

20. He was also unhappy with the references to the Roma, an issue which, in his view, fell outside the scope of the Committee's mandate. There was no proof of discrimination against the Roma community. The fact that a disproportionate number of Roma were under investigation did not constitute a breach of the Convention if there were genuine grounds for suspecting that they had broken the law.

21. The CHAIRMAN said that the Committee welcomed advice on its working methods and would give serious consideration to the delegation's suggestion regarding NGO material.

22. The delegation of Hungary withdrew.

The public part of the meeting rose at 12.15 p.m.